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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,064	01/21/2004	Dean Anthony Theodore		4593

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EXAMINER

MORGAN JR, JACK HOSMER

ART UNIT	PAPER NUMBER
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3782

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/762,064	Applicant(s) THEODORE, DEAN ANTHONY	
	Examiner Jack H. Morgan	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/21/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leja (US 5,573,166) in view of McArthur (US 4,883,207). Leja discloses a sports bag (Figures 1, 2, 3 and 6) with an oval shaped base (28), a front shell (20) a rear shell (22) that are operable in two positions, a co-planar (Fig 2) and closed (Fig 1) position. The exterior of the front shell (Fig 3) has a front mesh bag (32), left and right exterior mesh pockets (30), and left and right pockets (60). In addition, Leja discloses carrying means (40 and 36) for the bag. Leja does not disclose interior mesh pockets on either the front or rear shells or disclose specifically water-resistant materials, though the disclosure does suggest it (Col 4, lines 13-18). McArthur discloses a sports pack (Figures 2 and 7) which has a body comprised of water resistant material (Col 4, lines 58 and 59) with external pockets (46 and 48) also made out of the water resistant material, with zipper closures. In addition McArthur discloses interior mesh pockets (Fig 7, 54 and 52) secured to both the interior front and rear shells. These interior pockets are mesh in order to facilitate rapid drying of wet items (Col 5, lines 14-24). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to create the sports bag and exterior pockets of Leja out of the water resistant material of McArthur in order to keep water from passing through the bag. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the interior mesh pockets of McArthur to the inside of Leja's sports bag in order to facilitate the rapid drying of wet items without having to remove them from the bag.

In regards to claim 2, the left and right exterior pockets of Leja in the combination above with the exterior pockets of McArthur meet the limitations of the claim in that they are waterproof pockets closed by zippers.

In regards to claim 6, Leja does not disclose a collapsible bag. However, McArthur discloses a bag (Fig 4, 38) attached to the interior of the sports bag. In addition, claim 10 of McArthur discloses the bag to be made of a strong yet flexible material, rendering it collapsible. This allows the items within to be further protected (Col 5, lines 25-37). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the interior holding structure of Leja with the bag of McArthur in order to further protect any delicate items held within.

In regards to claim 9, the carrying means of Leja are disclosed as a right and left shoulder straps (40) as well as right and left waist straps (36).

2. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leja (US 5,573,166) in view of McArthur (US 4,883,207) as applied to claims 1, 2, 6 and 9 above, and further in view of Fawcett (US 5,803,333). Leja as modified above discloses

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all the limitations of the claims except for a stabilizer, with means to secure it to the front shell, those means comprising a top female strap connector, a top male strap connector, a left strap and a right strap. Fawcett discloses means for stabilizing an exterior mesh pocket (Fig 1), comprising top male and female strap connectors (44), as well as right and left straps (30a), which stabilize top edge of an exterior mesh pocket. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create one or more of the pockets of Leja as modified above with the stabilizer of Fawcett in order to stabilize the top edge of one or more exterior mesh pockets.

3. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leja (US 5,573,166) in view of McArthur (US 4,883,207) as applied to claims 1, 2, 6 and 9 above, and further in view of Fuller (US 5,511,846). The Leja as modified above discloses all the limitations of the claims except for a the collapsible bag comprising a pouch of flexible water resistant material and a mesh cylinder of a moisture and air permeable material. The bag of Fuller is comprised of a woven nylon (Fig 1, 50, Claim 4) lower pouch as well as an air and water permeable mesh cylinder (Fig 1, 48) which is described as a porous fabric (Claim 1). As the auxiliary bag of the Leja / McArthur combination was used to transport sports equipment it is obvious to substitute the bag of Fuller which is adapted to a different type of sports equipment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the bag of Fuller for the auxiliary bag of the Leja / McArthur combination.

In regards to claim 8, the combination of Leja and McArthur already discloses a means of securing the collapsible bag to the interior of the larger bag, which is capable of being positioned upon the rear shell of Leja, the disclosed means of McArthur include a zipper (McArthur, Fig 4, 40).

4. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leja (US 5,573,166) in view of McArthur (US 4,883,207) as applied to claims 1, 2, 6 and 9 above, and further in view of Fournier (US 6,193,034). The combination as described above discloses all the limitations of the claims except for the moisture and air permeable material being an nylon mesh. Fournier discloses pockets (Fig 3, 15-23) that are nylon mesh (Col 4, line 65 and 66), which are so made to expedite evaporation from the moisture of the items within (Abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pockets of the Leja / McArthur combination.

In regards to claim 11, the pockets of Fournier are disclosed as elasticized. (Col 5, lines 30-31).

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leja (US 5,573,166) in view of McArthur (US 4,883,207) and Fuller (US 5,511,846) as applied to claims 7 and 8 above, and further in view of DeFelice et al. (US 6,427,475). Leja as modified above discloses all the limitations of the claim with the exception of the collapsible bag attaching means being an adhesive material. DeFelice et al. disclose a

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nested bag system (Fig 1) with a smaller bag (20) attached to a larger bag (120) using hook and loop fasteners (Fig 2, 52 and Fig 5, 162) in order to releasably adhere the two bags together. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the two bags of the Leja combination using the hook and loop fasteners of DeFelice et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Godshaw et al. (US 6,655,565), Vigny (US 2003/0015563A1) and Fosher (US 4,386,437).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack Morgan
Art Unit 3782
October 12, 2006


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER